

By Senator Bennett

21-00759A-12

20121014

1 A bill to be entitled
2 An act relating to the health care; amending s.
3 456.013, F.S.; requiring that a licensed health care
4 practitioner wear a name tag indicating licensure
5 credentials when rendering health care services;
6 amending s. 463.002, F.S.; conforming provisions to
7 changes made by the act; amending s. 463.005, F.S.;
8 authorizing the Board of Optometry to adopt rules for
9 the administration and prescription of ocular
10 pharmaceutical agents rather than topical ocular
11 pharmaceutical agents; amending s. 463.0055, F.S.;;
12 authorizing certified optometrists to administer and
13 prescribe ocular pharmaceutical agents under certain
14 circumstances; revising qualifications of certain
15 members of the formulary committee; amending ss.
16 463.0057 and 463.006, F.S.; conforming provisions to
17 changes made by the act; amending s. 464.012, F.S.;;
18 expanding the scope of practice to authorize an
19 advanced registered nurse practitioner to order,
20 administer, monitor, and alter any drug or drug
21 therapies that are necessary for the proper medical
22 care and treatment of a patient under specified
23 circumstances; requiring that the Board of Nursing
24 adopt rules; authorizing a certified registered nurse
25 anesthetist, while participating in the management of
26 a patient in the postanesthesia recovery area, to
27 order the administration of drugs that are commonly
28 used to alleviate pain; amending s. 483.035, F.S.,
29 relating to licensure and regulation of clinical

21-00759A-12

20121014

laboratories operated by practitioners for exclusive use; providing applicability to clinical laboratories operated by practitioners licensed to practice optometry; amending s. 483.041, F.S.; revising the definition of the term "licensed practitioner" for purposes of the Florida Clinical Laboratory Law to include a practitioner licensed under ch. 463, F.S., relating to the practice of optometry; amending s. 483.181, F.S.; requiring clinical laboratories to accept human specimens submitted by practitioners licensed to practice under ch. 463, F.S.; amending s. 766.102, F.S.; revising the burden of proof that a claimant must demonstrate in order to prove medical negligence by a health care provider or an emergency health care provider; providing for applicability; amending s. 893.02, F.S.; revising the definition of the term "practitioner" for purposes of the Florida Comprehensive Drug Abuse Prevention and Control Act to include certified optometrists; amending s. 893.05, F.S.; prohibiting certified optometrists from administering and prescribing certain controlled substances; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (13) is added to section 456.013, Florida Statutes, to read:

456.013 Department; general licensing provisions.—

(13) When rendering professional health care services, a

21-00759A-12

20121014

59 health care practitioner shall wear at all times a name badge
60 that indicates his or her appropriate licensure credentials.

61 Section 2. Subsections (3), (4), and (5) of section
62 463.002, Florida Statutes, are amended to read:

63 463.002 Definitions.—As used in this chapter, the term:

64 (3) (a) "Licensed practitioner" means a person who is a
65 primary health care provider licensed to engage in the practice
66 of optometry under the authority of this chapter.

67 (b) A licensed practitioner who is not a certified
68 optometrist shall be required to display at her or his place of
69 practice a sign which states, "I am a Licensed Practitioner, not
70 a Certified Optometrist, and I am not able to prescribe ~~topical~~
71 ocular pharmaceutical agents."

72 (c) All practitioners initially licensed after July 1,
73 1993, must be certified optometrists.

74 (4) "Certified optometrist" means a licensed practitioner
75 authorized by the board to administer and prescribe ~~topical~~
76 ocular pharmaceutical agents.

77 (5) "Optometry" means the diagnosis of conditions of the
78 human eye and its appendages; the employment of any objective or
79 subjective means or methods, including the administration of
80 ~~topical-ocular~~ pharmaceutical agents, for the purpose of
81 determining the refractive powers of the human eyes, or any
82 visual, muscular, neurological, or anatomic anomalies of the
83 human eyes and their appendages; and the prescribing and
84 employment of lenses, prisms, frames, mountings, contact lenses,
85 orthoptic exercises, light frequencies, and any other means or
86 methods, including ~~topical-ocular~~ pharmaceutical agents, for the
87 correction, remedy, or relief of any insufficiencies or abnormal

21-00759A-12

20121014

88 conditions of the human eyes and their appendages.

89 Section 3. Paragraph (g) of subsection (1) of section
90 463.005, Florida Statutes, is amended to read:

91 463.005 Authority of the board.—

92 (1) The Board of Optometry has authority to adopt rules
93 pursuant to ss. 120.536(1) and 120.54 to implement the
94 provisions of this chapter conferring duties upon it. Such rules
95 shall include, but not be limited to, rules relating to:

96 (g) Administration and prescription of ~~topical~~ ocular
97 pharmaceutical agents.

98 Section 4. Section 463.0055, Florida Statutes, is amended
99 to read:

100 463.0055 Administration and prescription of ~~topical~~ ocular
101 pharmaceutical agents; committee.—

102 (1) Certified optometrists may administer and prescribe
103 ~~topical-ocular~~ pharmaceutical agents as provided in this section
104 for the diagnosis and treatment of ocular conditions of the
105 human eye and its appendages without the use of surgery or other
106 invasive techniques. However, a licensed practitioner who is not
107 certified may use topically applied anesthetics solely for the
108 purpose of glaucoma examinations, but is otherwise prohibited
109 from administering or prescribing ~~topical-ocular~~ pharmaceutical
110 agents.

111 (2) (a) There is ~~hereby~~ created a committee composed of two
112 certified optometrists licensed pursuant to this chapter,
113 appointed by the Board of Optometry, two board-certified
114 ophthalmologists licensed pursuant to chapter 458 or chapter
115 459, appointed by the Board of Medicine, and one additional
116 person with a doctorate degree in pharmacology who is not

21-00759A-12

20121014

117 licensed pursuant to chapter 458, chapter 459, or this chapter,
118 appointed by the State Surgeon General. The committee shall
119 review requests for additions to, deletions from, or
120 modifications of a formulary of ~~topical~~ ocular pharmaceutical
121 agents for administration and prescription by certified
122 optometrists and shall provide to the board advisory opinions
123 and recommendations on such requests. The formulary shall
124 consist of those ~~topical-ocular~~ pharmaceutical agents which the
125 certified optometrist is qualified to use in the practice of
126 optometry. The board shall establish, add to, delete from, or
127 modify the formulary by rule. Notwithstanding any provision of
128 chapter 120 to the contrary, the formulary rule shall become
129 effective 60 days following ~~from~~ the date it is filed with the
130 Secretary of State.

131 (b) The formulary may be added to, deleted from, or
132 modified according to the procedure described in paragraph (a).
133 Any person who requests an addition, deletion, or modification
134 of an authorized ~~topical~~ ocular pharmaceutical agent shall have
135 the burden of proof to show cause why such addition, deletion,
136 or modification should be made.

137 (c) The State Surgeon General shall have standing to
138 challenge any rule or proposed rule of the board pursuant to s.
139 120.56. In addition to challenges for any invalid exercise of
140 delegated legislative authority, the administrative law judge,
141 upon such a challenge by the State Surgeon General, may declare
142 all or part of a rule or proposed rule invalid if it:

- 143 1. Does not protect the public from any significant and
144 discernible harm or damages;
- 145 2. Unreasonably restricts competition or the availability

21-00759A-12

20121014

146 of professional services in the state or in a significant part
147 of the state; or

148 3. Unnecessarily increases the cost of professional
149 services without a corresponding or equivalent public benefit.

150

151 However, there shall not be created a presumption of the
152 existence of any of the conditions cited in this subsection if
153 ~~in the event that~~ the rule or proposed rule is challenged.

154 (d) Upon adoption of the formulary required by this
155 section, and upon each addition, deletion, or modification to
156 the formulary, the board shall mail a copy of the amended
157 formulary to each certified optometrist and to each pharmacy
158 licensed by the state.

159 (3) A certified optometrist shall be issued a prescriber
160 number by the board. Any prescription written by a certified
161 optometrist for a ~~topical ocular~~ pharmaceutical agent pursuant
162 to this section shall have the prescriber number printed
163 thereon.

164 Section 5. Subsection (3) of section 463.0057, Florida
165 Statutes, is amended to read:

166 463.0057 Optometric faculty certificate.—

167 (3) The holder of a faculty certificate may engage in the
168 practice of optometry as permitted by this section, but may not
169 administer or prescribe ~~topical~~ ocular pharmaceutical agents
170 unless the certificateholder has satisfied the requirements of
171 s. 463.006(1)(b)4. and 5.

172 Section 6. Subsections (2) and (3) of section 463.006,
173 Florida Statutes, are amended to read:

174 463.006 Licensure and certification by examination.—

21-00759A-12

20121014

175 (2) The examination shall consist of the appropriate
176 subjects, including applicable state laws and rules and general
177 and ocular pharmacology with emphasis on the use ~~topical~~
178 ~~application~~ and side effects of ocular pharmaceutical agents.
179 The board may by rule substitute a national examination as part
180 or all of the examination and may by rule offer a practical
181 examination in addition to the written examination.

182 (3) Each applicant who successfully passes the examination
183 and otherwise meets the requirements of this chapter is entitled
184 to be licensed as a practitioner and to be certified to
185 administer and prescribe ~~topical-ocular~~ pharmaceutical agents in
186 the diagnosis and treatment of ocular conditions.

187 Section 7. Subsection (3) and paragraph (a) of subsection
188 (4) of section 464.012, Florida Statutes, are amended to read:

189 464.012 Certification of advanced registered nurse
190 practitioners; fees.—

191 (3) An advanced registered nurse practitioner shall perform
192 those functions authorized in this section within the framework
193 of an established protocol that is filed with the board upon
194 biennial license renewal and within 30 days after entering into
195 a supervisory relationship with a physician or changes to the
196 protocol. The board shall review the protocol to ensure
197 compliance with applicable regulatory standards for protocols.
198 The board shall refer to the department licensees submitting
199 protocols that are not compliant with the regulatory standards
200 for protocols. A practitioner currently licensed under chapter
201 458, chapter 459, or chapter 466 shall maintain supervision for
202 directing the specific course of medical treatment. Within the
203 established framework, an advanced registered nurse practitioner

21-00759A-12

20121014

204 may:

205 (a) Order, administer, monitor, and alter any drug or drug
206 therapies that are necessary for the proper medical care and
207 treatment of a patient, including Schedule II through Schedule V
208 controlled substances under chapter 893 and those drugs agreed
209 upon by the advanced registered nurse practitioner and the
210 supervising practitioner and specified in the protocol. An
211 advanced registered nurse practitioner may order or administer
212 such drugs under the following conditions:

213 1. The drugs are ordered or administered by an advanced
214 registered nurse practitioner in accordance with a protocol
215 developed by the advanced registered nurse practitioner and the
216 supervising practitioner, and the drugs ordered are consistent
217 with the advanced registered nurse practitioner's educational
218 preparation or for which clinical competency has been
219 established and maintained.

220 2. The protocol covering the order or administration of
221 drugs specifies the name of the advanced registered nurse
222 practitioner who may administer or order drugs, the drugs that
223 may be ordered and the circumstances under which they may be
224 ordered, the extent of the practitioner's supervision of the
225 advanced registered nurse practitioner, and the method of
226 periodic review of the advanced registered nurse practitioner's
227 competence, including peer review. The protocol for
228 administering Schedule II controlled substances must address the
229 illness, injury, or condition for which a Schedule II controlled
230 substance is administered.

231 3. The administering or ordering of drugs by an advanced
232 registered nurse practitioner occurs under practitioner

21-00759A-12

20121014

233 supervision. As used in this paragraph, the term "practitioner
234 supervision" means a collaboration between the advanced
235 registered nurse practitioner and the supervising practitioner
236 on the development of the protocol and the availability of the
237 supervising practitioner via telephonic contact at the time the
238 patient is examined by the advanced registered nurse
239 practitioner. The term does not mean that the physical presence
240 of the supervising practitioner is required. A practitioner may
241 not supervise more than four advanced registered nurse
242 practitioners at any one time.

243 4. The controlled substances are administered or ordered in
244 accordance with a patient-specific protocol approved by the
245 treating or supervising practitioner if Schedule II or Schedule
246 III controlled substances are administered or ordered by the
247 advanced registered nurse practitioner. A copy of the section of
248 the advanced registered nurse practitioner's protocol relating
249 to controlled substances must be provided upon request to the
250 licensed pharmacist who dispenses the drugs.

251 5. The board has certified that the advanced registered
252 nurse practitioner has satisfactorily completed:

253 a. At least 6 months of direct supervision in the
254 administering and ordering of drugs; and

255 b. A course in pharmacology covering the order, use,
256 administration, and dispensing of controlled substances.

257

258 The board shall adopt rules to administer this paragraph.

259 (b) Initiate appropriate therapies for certain conditions.

260 (c) Perform additional functions as may be determined by
261 rule in accordance with s. 464.003(2).

21-00759A-12

20121014

262 (d) Order diagnostic tests and physical and occupational
263 therapy.

264 (4) In addition to the general functions specified in
265 subsection (3), an advanced registered nurse practitioner may
266 perform the following acts within his or her specialty:

267 (a) The certified registered nurse anesthetist may, to the
268 extent authorized by established protocol approved by the
269 medical staff of the facility in which the anesthetic service is
270 performed, perform any or all of the following:

271 1. Determine the health status of the patient as it relates
272 to the risk factors and to the anesthetic management of the
273 patient through the performance of the general functions.

274 2. Based on history, physical assessment, and supplemental
275 laboratory results, determine, with the consent of the
276 responsible physician, the appropriate type of anesthesia within
277 the framework of the protocol.

278 3. Order under the protocol preanesthetic medication.

279 4. Perform under the protocol procedures commonly used to
280 render the patient insensible to pain during the performance of
281 surgical, obstetrical, therapeutic, or diagnostic clinical
282 procedures. These procedures include ordering and administering
283 regional, spinal, and general anesthesia; inhalation agents and
284 techniques; intravenous agents and techniques; and techniques of
285 hypnosis.

286 5. Order or perform monitoring procedures indicated as
287 pertinent to the anesthetic health care management of the
288 patient.

289 6. Support life functions during anesthesia health care,
290 including induction and intubation procedures, the use of

21-00759A-12

20121014

291 appropriate mechanical supportive devices, and the management of
292 fluid, electrolyte, and blood component balances.

293 7. Recognize and take appropriate corrective action for
294 abnormal patient responses to anesthesia, adjunctive medication,
295 or other forms of therapy.

296 8. Recognize and treat a cardiac arrhythmia while the
297 patient is under anesthetic care.

298 9. Participate in management of the patient while in the
299 postanesthesia recovery area, including ordering the
300 administration of fluids and drugs, which include those drugs
301 that are commonly used to alleviate pain.

302 10. Place special peripheral and central venous and
303 arterial lines for blood sampling and monitoring as appropriate.

304 Section 8. Subsection (1) of section 483.035, Florida
305 Statutes, is amended to read:

306 483.035 Clinical laboratories operated by practitioners for
307 exclusive use; licensure and regulation.—

308 (1) A clinical laboratory operated by one or more
309 practitioners licensed under chapter 458, chapter 459, chapter
310 460, chapter 461, chapter 462, chapter 463, or chapter 466,
311 exclusively in connection with the diagnosis and treatment of
312 their own patients, must be licensed under this part and must
313 comply with the provisions of this part, except that the agency
314 shall adopt rules for staffing, for personnel, including
315 education and training of personnel, for proficiency testing,
316 and for construction standards relating to the licensure and
317 operation of the laboratory based upon and not exceeding the
318 same standards contained in the federal Clinical Laboratory
319 Improvement Amendments of 1988 and the federal regulations

21-00759A-12

20121014

320 adopted thereunder.

321 Section 9. Subsection (7) of section 483.041, Florida
322 Statutes, is amended to read:

323 483.041 Definitions.—As used in this part, the term:

324 (7) "Licensed practitioner" means a physician licensed
325 under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 461, or
326 chapter 463; a dentist licensed under chapter 466; a person
327 licensed under chapter 462; or an advanced registered nurse
328 practitioner licensed under part I of chapter 464; or a duly
329 licensed practitioner from another state licensed under similar
330 statutes who orders examinations on materials or specimens for
331 nonresidents of the State of Florida, but who reside in the same
332 state as the requesting licensed practitioner.

333 Section 10. Subsection (5) of section 483.181, Florida
334 Statutes, is amended to read:

335 483.181 Acceptance, collection, identification, and
336 examination of specimens.—

337 (5) A clinical laboratory licensed under this part must
338 accept a human specimen submitted for examination by a
339 practitioner licensed under chapter 458, chapter 459, chapter
340 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
341 chapter 466, if the specimen and test are the type performed by
342 the clinical laboratory. A clinical laboratory may only refuse a
343 specimen based upon a history of nonpayment for services by the
344 practitioner. A clinical laboratory shall not charge different
345 prices for tests based upon the chapter under which a
346 practitioner submitting a specimen for testing is licensed.

347 Section 11. Effective October 1, 2012, and applicable to
348 causes of action accruing on or after that date, subsection (1)

21-00759A-12

20121014

349 of section 766.102, Florida Statutes, is amended to read:

350 766.102 Medical negligence; standards of recovery; expert
351 witness.—

352 (1) In any action for recovery of damages based on the
353 death or personal injury of any person in which it is alleged
354 that such death or injury resulted from the negligence of the
355 following persons:

356 (a) A health care provider as defined in s. 766.202(4); or

357 (b) An emergency health care provider, which includes a
358 person or an entity that provides services according to
359 obligations imposed by s. 395.1041 or s. 401.45, but does not
360 include a person or entity that is otherwise covered under this
361 section,

362
363 the claimant has ~~shall have~~ the burden of proving by clear and
364 convincing ~~the greater weight of~~ evidence that the alleged
365 actions of the health care provider or emergency health care
366 provider represented a breach of the prevailing professional
367 standard of care for that health care provider or emergency
368 health care provider. The prevailing professional standard of
369 care for a given health care provider or emergency health care
370 provider is the ~~shall be that~~ level of care, skill, and
371 treatment which, in light of all relevant surrounding
372 circumstances, is recognized as acceptable and appropriate by
373 reasonably prudent similar health care providers or emergency
374 health care providers.

375 Section 12. Subsection (21) of section 893.02, Florida
376 Statutes, is amended to read:

377 893.02 Definitions.—The following words and phrases as used

21-00759A-12

20121014

378 in this chapter shall have the following meanings, unless the
379 context otherwise requires:

380 (21) "Practitioner" means a physician licensed pursuant to
381 chapter 458, a dentist licensed pursuant to chapter 466, a
382 veterinarian licensed pursuant to chapter 474, an osteopathic
383 physician licensed pursuant to chapter 459, a naturopath
384 licensed pursuant to chapter 462, a certified optometrist
385 licensed pursuant to chapter 463 to administer and prescribe
386 ocular pharmaceutical agents, or a podiatric physician licensed
387 pursuant to chapter 461, provided such practitioner holds a
388 valid federal controlled substance registry number.

389 Section 13. Subsection (1) of section 893.05, Florida
390 Statutes, is amended to read:

391 893.05 Practitioners and persons administering controlled
392 substances in their absence.—

393 (1) A practitioner, in good faith and in the course of his
394 or her professional practice only, may prescribe, administer,
395 dispense, mix, or otherwise prepare a controlled substance, or
396 the practitioner may cause the same to be administered by a
397 licensed nurse or an intern practitioner under his or her
398 direction and supervision only, except that an optometrist
399 certified pursuant to chapter 463 to administer and prescribe
400 ocular pharmaceutical agents may not administer or prescribe any
401 controlled substance listed in Schedule I or Schedule II of s.
402 893.03. A veterinarian may so prescribe, administer, dispense,
403 mix, or prepare a controlled substance for use on animals only,
404 and may cause it to be administered by an assistant or orderly
405 under the veterinarian's direction and supervision only.

406 Section 14. Except as otherwise expressly provided in this

21-00759A-12

20121014__

407 act, this act shall take effect July 1, 2012.